

ELEMENT 7

MONITORING FOR COMPLIANCE

Reference: 37.54(d)(2)(ii)

The State shall monitor its activities, and the activities of its contractors and subcontractors, to determine compliance with nondiscrimination and equal opportunity provisions and regulations required in 37.54(d)(1)(ii) at a minimum, such monitoring shall include a review of:

1. Assurances in applications for financial assistance under Title I of WIA, as defined in Section 37.4. Documents such as request for proposals, proposals, contracts, etc. must contain information regarding the proposed levels of service to males and females, the various racial, ethnic and age groups, and individuals with disabilities to assure equitable services (Reference 37.20-37.22);
2. Duties and responsibilities of assigned Equal Opportunity Officer (37.23-37.28);
3. Dissemination of nondiscrimination and equal opportunity notices (Reference 37.29-37.36) to the following:
 - a. Registrants, applicants, and eligible applicants/registrants;
 - b. Participants;
 - c. Applicants for employment and employees;
 - d. Union or professional organizations that hold collective bargaining or professional agreements with the recipient;
 - e. Subrecipients that receive WIA Title I funds from the recipient; and
 - f. Members of the public, including those with impaired vision or hearing.
4. Analysis of data collected and maintained on participants and applicants for determining compliance with eligibility requirements and nondiscrimination and equal opportunity provisions. (Reference 37.37-37.41)

Such data includes, but is not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment and employee. Records maintained are confidential and restricted to authorized persons.

Where significant differences are found, follow-up investigations to determine whether the differences are due to discrimination, through record review, interviews and other appropriate investigative technique.

System and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with Section 188 of WIA.

5. Outreach and service efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities and individuals in differing age groups in WIA Title I-financial assisted programs and activities include, but are not limited to advertising in newspapers or radio programs, that specifically target various populations, sending notices to schools and community service groups that serve various populations, consulting with appropriate community service groups about ways to improve its outreach and service to various populations. (Reference 37.42)
6. Maintenance of a complaint system and complaint records in compliance with 37.70-37.80;
7. EO evaluation and monitoring of applicants for and recipient of WIA Title I financial assistance including monitoring assurances and program and physical accessibility;
8. Records of nondiscrimination and equal opportunity training;
9. Sanctions and corrective actions
10. Pursuant to 29 CFR 37.37 through 41 the recipient will use the following methods to determine whether any differences based upon race/ethnicity or sex have practical or statistical significance:
 - “Eighty-percent (80%) rule” – 41 CFR 60.3 the regulation regarding the Uniform Employee Selection Guidelines, and those that reveal statistical significance, such as the two standard deviation test.
 - Analysis of the data and records collected, to determine whether any differences based upon race/ethnicity or sex have practical or statistical significance; and where significant differences are found, follow-up investigations to determine, through review, interviews and other appropriate investigative techniques, whether the differences are due to discrimination.
11. The systems are evaluating the extent to which recipients are complying with the administrative obligations of 29 CFR 37 such as: Assurances, Equal Opportunity Officers, Data and Information Collection and Maintenance, Universal Access, and Complaint Processing Procedures are as follows: (please note Monitoring Tools 1 & 2).

Assurances. (See Monitoring Tools 1 & 2 in Documentation)

Applications, grants, cooperative agreements, contracts, or similar documents specify the recipient’s assurance of nondiscrimination, using the language reprinted from 29 CFR Section 37.20 (a)(1) at the beginning of the present chapter.

Instruments that effect or record the transfer of real property, structures, or improvements on real property or structures used in conjunction with WIA Title I activities include a covenant assuring nondiscrimination and equal opportunity.

Equal Opportunity Officers. (See Monitoring Tools 1 & 2 in Documentation)

- Recipient, larger than a “small recipient” has appointed an EO Officer.
- Small recipient has designated and charged an individual to develop and publish complaint procedures and process complaints alleging discrimination against persons with disabilities.
- EO Officer is a senior-level employee.
- EO Officer does not have other responsibilities that are or appear to be in conflict with responsibilities of an EO Officer.
- EO Officer serves a liaison with CRC
- EO Officer is charged with monitoring recipient’s activities and reviewing recipient’s written policies to ensure nondiscrimination.
- EO Officer has developed and published recipient’s procedures for processing discrimination complaints.
- EO Officer reports directly to agency director regarding equal opportunity matters.
- EO Officer has received sufficient training to exercise the position.
- Notice of the EO Officer’s name and contact information are readily available to the public.
- Notice of the EO Officer’s name and contact information appear on internal and external communications about the recipient’s nondiscrimination and EO programs.
- EO Officer has sufficient staff and resources.
- EO Officer has explicit support of top management.
- EO staff have received sufficient training to maintain competency.

Notice and Communication. (See Monitoring Tools 1 & 2 in Documentation)

- Initial and continuing nondiscrimination and EO notice is provided to all registrants, applicants, eligible applicants/registrants; participants; applicants for employment and employees; unions or professional organizations that hold

collective bargaining or professional agreements with the recipient; subrecipients, and to members of the public using the wording of 29 CFR Section 37.30 that is reprinted earlier in the present chapter.

- Initial and continuing notice of EO and nondiscrimination is provided to those with impaired vision or hearing.
- Recipient ensures that communications with individuals with disabilities are as effective as communication with others.
- EO and nondiscrimination notice is posted prominently in reasonable numbers and places.
- EO and nondiscrimination notice is disseminated in internal memoranda and other written and electronic communications.
- EO and nondiscrimination notice is included in handbooks and manuals.
- EO and nondiscrimination notice is made available to each participant and included in his/her file.
- EO and nondiscrimination notice is provided in appropriate alternate formats to persons with visual impairments and record of such provision is recorded in participants' files.
- Recruitment brochures and other materials that describe a recipient's programs to the public indicate that the WIA Title I-financially assisted program or activity is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities."
- Materials that are made available to the public that include a recipient's telephone number also include the telephone number of TDD/TTY or relay service used by the recipient.
- Recipient's program information that is published or broadcast in the news media include the notice that any Title I financially assisted program is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities."
- Recipient employs no communications in any form or media that suggest that the recipient treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited ground, except where legally permissible.
- Each orientation presentation for new participants, new employees, or the general public includes a discussion of rights under the nondiscrimination and EO

provisions of WIA, including the right to file a complaint with the recipient or the CRC.

Data and Information Collection and Maintenance. (See Monitoring Tools 1 & 2 in Documentation)

Recipient maintains nondiscrimination and EO records that include race/ethnicity, sex, age, and disability status, where known, for:

- applicants
- registrants
- eligible applicants or registrants
- participants
- terminees
- employees
- applicants for employment
- The system and format in which the records are kept allows the governor or CRC to conduct quantitative data analyses from the data.
- Recipient maintains adequate procedures to guard the confidentiality of all data and information pertaining to EO and nondiscrimination.
- Recipient maintains adequate procedures to guard the confidentiality of all data and information that relates to compliance reviews or investigation of a complaint, including the identity of any person who files a complaint of discrimination.
- Recipient maintains a log of complaints filed with them that allege EO or disability discrimination; the log includes: name and address of complainant; ground of the complaint; description of the complaint; date the complaint was filed; disposition and date of disposition of the complaint; other pertinent information.
- Recipient retains EO and nondiscrimination records for at least three years following the close of each program year.
- Recipient grants access upon request of the CRC Director for monitoring or complaint investigation.

- Recipient has provided prompt notification to CRC of any lawsuits or enforcement actions filed against the recipient, including: the names of parties to the action or lawsuit, the forum in which each case was filed, and relevant case numbers.

Universal Access. (See Monitoring Tools 1 & 2 in Documentation)

- Recipient has taken appropriate steps to ensure provision of universal access to their programs and activities.
- Steps have incorporated reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals from differing age groups.
- Recipients that use advertisements, have placed advertisements in various newspapers or radio programs that target diverse segments of the population.
- Recipients that send notices to schools or community service groups have included those schools and groups that serve a variety of populations.
- Recipients have consulted with appropriate community service groups regarding ways to improve recipient's outreach and service to various populations.

Complaint Processing Procedures. (See Monitoring Tools 1 & 2 in Documentation)

- Recipient has adopted and published procedures for responding to complaints of discrimination that may be filed with them in accord with 29 CFR Sections 37.70-76.
- Recipient's procedures provide assurance that a written Notice of Final Action on discrimination complaints will be issued within 90 days of the date any complaint is filed.
- Recipient's procedures for responding to complaints of discrimination include the option of alternative dispute resolution (ADR) that may be elected by any complainant.
- Recipient's procedures for responding to complaints include notifying complainant that they have the right to be represented by an attorney or other individual.
- Recipient's EO Officer has copies of CRC's Complaint Information and Privacy Act Consent Form in his/her file.

12. Monitoring Schedule. The Monitoring Schedule will start the fourth quarter (October 2010). Monitoring Tools 1 & 2 will be used. We will be monitoring West Central Arkansas, Northwest Arkansas and Central Arkansas.
13. The Monitoring and Oversight Procedures are used to coordinate the review efforts from start to finish.

DOCUMENTATIONS

1. WIA Statistical Report (See Element 6 -- Data and Information)
2. Monitoring Tool 1 (Arkansas Workforce Career Center Monitoring Tool and Self Evaluation)
3. Monitoring Tool 2 (WIA State Monitoring Tool)
4. Monitoring Tool 3 (UI Programs)
5. Monitoring Tool 4 (ES Programs)
6. Monitoring Schedule
7. Monitoring and Oversight Procedures